IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.155 OF 2007

Shri.Surendra S. Pai ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.Samrat Jadhav, Advocate for the Applicant.
Mr.S.S.Pednekar, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.
DATED : 10th April, 2007.

P.C.:

1. Heard the learned Advocate for the applicant and the learned APP for the State.

2. The applicant-orig.accused has been convicted under Section 406 of IPC by the learned M.M.,27th Court, Mulund, Mumbai by judgment and order dated 26.4.2006 in Case No.1409/P/1996. By the said judgment and order the learned Magistrate sentenced the applicant to suffer RI for six months and fine of Rs.5000/- in default SI for one month. Being aggrieved by the said judgment and order the applicant preferred Criminal Appeal No.105 of 2007. The Sessions Judge, Greater Mumbai by judgment and order dated 26.3.2007

dismissed the said Appeal. Being aggrieved thereby, this Revision has been preferred by the applicant.

3. It is the prosecution case that the complainant had opened an account in Syndicate Bank in Pigmy deposit scheme. The applicant used to collect the amount from the complainant and deposits the same with the bank. The complainant had given Rs.20,575/- to the applicant, however, the applicant had only deposited Rs.8075/- in the account of the complainant and remaining amount of Rs.12,500/- were not deposited in the bank. Hence, complaint came to be lodged. After perusal of the evidence, the applicant came to be convicted and sentenced as stated above.

4. Mr.Jadhav, the learned Advocate for the applicant, on instructions, states that the applicant is not challenging his conviction. However, it is prayed that the sentence of imprisonment may be reduced and instead the fine may be substantially increased.

5. The learned APP states that if the fine

amount is substantially increased, he does not have any serious objection to period of imprisonment being reduced to the period already undergone by the applicant.

6. The applicant has undergone almost four months out of the said six months. In view of the above, the conviction of the applicant is confirmed. However, the sentence of imprisonment is reduced to the period already undergone by the applicant and fine amount of Rs.5,000/- as imposed by the learned Magistrate is increased to Rs.30,000/-. In case the fine amount of Rs.5,000/- as imposed by the learned Magistrate has already been deposited by the applicant, the applicant will have to deposit the remaining fine amount of Rs.25,000/-. If the fine amount of Rs.5,000/- has not been deposited by the applicant, then the applicant has to deposit the entire amount of Rs.30,000/- before the trial Court. On the fine amount being deposited in the trial Court, the applicant shall be released forthwith.

7. Criminal Revision Application is partly

allowed.

(SMT.V.K.TAHILRAMANI,J.)